DOCUMENT RESUME

ED 121 550 RC 009 153

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TITLE Statement by Richard D. Salvatierra, Assistant National Director, LULAC National Education Service Centers, Accompanied by Ms. Ada Pena, National Vice President, League of United Latin American Citizens; Mr. Roger W. Gomez, Legislative Assistant, LULAC National Education Service Centers before the Office of Federal Contract Compliance, U.S. Department of Labor, October 1, 1975.
INSTITUTION League of United Latin American Citizens, Washington, D.C. National Education Service Centers.
PUB DATE 1 Oct 75
NOTE 12p.; For related documents, see RC 009 151-152

EDRS PRICE MF-$0.83 HC-$1.67 Plus Postage
DESCRIPTORS *Affirmative Action; Agency Role; *Change Strategies; Educational Discrimination; Equal Education; Equal Opportunities (Jobs); *Government Role; *Higher Education; Institutional Role; Organizations (Groups); Program Improvement; *Spanish Culture
IDENTIFIERS League of United Latin American Citizens; *LULAC; LULAC National Education Service Centers

ABSTRACT

Affirmative action was intended as the vehicle to bring about equal opportunities for minorities, including the Hispanics who had been for the most part effectively shut out from full participation in higher education. After more than a decade of affirmative action, there has been little noticeable improvement for the Hispanic in higher education, particularly at the faculty and professional levels. Data has revealed that little real improvement has occurred even with implementation of affirmative action. Much of the failure has been attributed to the Federal government's lack of enforcement. In Mr. Salvatierra's testimony before the Office of Federal Contract Compliance, 11 recommendations which LULAC National Education Service Centers felt should be instituted to implement the effective continuation of affirmative action at the nation's colleges and universities were presented. Among these were: HEW should institute a thorough program to assist institutions of higher education in the areas of personnel, institutional and managerial planning in over-all affirmative action efforts; all Federal agencies involved with affirmative action should develop uniform guidelines for higher education with HEW supervising; and HEW should place greater emphasis on affirmative action in graduate schools to increase the availability of minorities including Hispanics for academic employment. (NQ)

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ED121552

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STATEMENT

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OFFICE OF FEDERAL CONTRACT COMPLIANCE

U.S. DEPARTMENT OF LABOR

OCTOBER 1, 1975

RC009153

Good Afternoon, Judge Sternberg and distinguished members of the panel. I am Richard D. Salvatierra, Assistant National Director of the LULAC National Education Service Centers (LNESC). Accompanying me is Ms. Ada Pena, National Vice President of LULAC and former National Executive Director for LULAC Women's Programs. Also with me is Mr. Roger W. Gomez, Legislative Assistant out for LNESC. LULAC is the League of United Latin American Citizens which is the largest Hispanic organization in the United States.

On behalf of LNESC, I would like to take this opportunity to thank you for the occasion to appear before you today to communicate our concerns on affirmative action in higher education particularly as it affects the Hispanic Americans in this country.

I would first like to present you with a short brief on our organization, its purpose, and objectives.

LNESC works in the area of higher education with primary emphasis with Hispanics. Our major objectives are to:

1) Increase the number of educationally disadvantaged persons attending America's colleges and universities with special emphasis on Hispanic-American students.
2) Increase the retention rate among Hispanic-American students.
3) Increase the awareness of the educational problems faced by the Hispanic community to institutions of higher education, foundations, corporations, and federal agencies with the intent to bring about an increased concentration of resources on the problem.

Our headquarters is located here in Washington, D.C., and we maintain offices in eleven (11) cities in nine (9) states across the country.

In order to realize the magnitude of the problem Hispanics face in higher education, I would like to present a few statistics that urgently reflect the need for affirmative action to take a much stronger course in institutions of higher education to effectively bring about greater opportunities for us.

According to the 1970 census, Hispanics constituted approximately 6% of the total population. At the same time, however, only 1.9% of America's college students were of Hispanic heritage. Hispanic graduate students accounted for only 1% of the total graduate school enrollment. Of the bachelor degrees earned in 1970, the Hispanic accounted for only 1.2%. For those earning a doctorate degree in 1972-1973, it was a disparate .8%![1]

The highest concentration of Hispanics are found in the Southwest, particularly in the states of California and Texas. In California, Hispanics account for over 16% of the population.[2] Enrollment figures for the California state universities and colleges indicate that we account for 5.4% of the undergraduate and 3.0% of the graduate students, while for the University of California, the figures drop to 3.1% and 2.8% respectively.[3]

Hispanics account for well over 19% of Arizona's population, but yet they only account for 4.3% of the enrollment at the University of Arizona.[4]

Over 40% of New Mexico's population is of Hispanic heritage, yet they only make up 14% of the student body at the University of New Mexico.[5] The same disparate situation exists not only in the Southwest, but throughout

the entire country as well.

The Hispanics' dilemma in higher education as evidenced by their disproportiante numbers is greatly intensified by the fact that current data reveals a minute .6% of the faculty nation-wide is of Hispanic heritage at institutions of higher learning.[6] According to a study conducted by the College Entrance Examination Board in July 1972, the ratio of Hispanic students to Hispanic faculty was nearly 100 to 1 in the Southwest. A ratio of approximately 20 to 1 is generally considered acceptable as a typical student/faculty ratio throughout higher education institutions. Again, we see the gross disparity that serves to re-inforce and complicate the problems confronting the Hispanic in higher education.

This dismal picture makes the need for affirmative action for Hispanics all the more important in order to overcome the existing inequities. In discussing the concept of affirmative action, women and blacks immediately come to mind with very little, if any consideration given to Hispanic men and women by both public and private sectors. As the nation's second largest minority group, we feel that adequate attention must be paid to Hispanics when reference is made to affirmative action.

The federal government is largely to blame for the incomplete compilation of statistical data for the Hispanic in higher education. Consequently, a true comprehensive national profile of the Hispanic in this area of concern has been distorted because of inadequate statistical data. This lack of data further strengthens the argument that there remains a demonstrable need for the effective implementation of affirmative action programs at the nation's colleges and universities. Furthermore, such comprehensive data would be of great use in judging gains made by Hispanics in enrollment, and their employment at centers of higher learning.

After more than a decade of affirmative action, there has been little noticeable improvement for the Hispanic in higher education, particularly at the faculty and professional levels. The nation has committed itself to equal opportunity for minorities and women in the nation's colleges and universities, yet data has revealed that little real improvement has occurred even with implementation of affirmative action. Much of the failure has been attributed to the lack of enforcement of affirmative action by the federal government. This then is to be the crux of our testimony.

Title VI of the Civil Rights Acts of 1964 prohibits the nation more than 2,800 colleges and universities from discriminating on the basis of race, color, or national origin in the admission of students and institutional services to students and faculty. Furthermore, as you are well aware, Executive Order 11246 issued in 1965 and amended in 1967, required all institutions having contracts with the government to:

1) Not to discriminate in employment on the basis of race, color, sex, religion or national origin; and

2) To take affirmative action to insure that equal employment practices are followed at all facilities of the contractor. To this end, the Office of Civil Rights in HEW was delegated by the Dept. of Labor to assume the enforcement responsibilities for all educational institutions including those in higher education. Affirmative Action was intended to be the driving vehicle to bring about equal opportunities for minorities, including the Hispanics who had been for the most part effectively shut out from full participation in higher education.

Many institutions of higher learning have argued to exempt themselves from implementing affirmative action on the basis that these laws should not apply to them as compared to the other public and private employment sectors

of the economy. However, the House of Education and Labor Committee report on the Equal Employment Opportunities Enforcement Act of 1971 explicitly stated;

> Discrimination against minorities and women in the field of education is as pervasive as discrimination in any other area of employment. This is also true in the field of higher education.

Similar views were expressed in the Senate Committee on Labor and Public Welfare Report on the Equal Employment Opportunities Enforcement Act of 1971:

> The presence of discrimination in the nation's educational institutions is no secret. Many of the most famous and best remembered civil rights cases have involved discrimination in education.
>
> ...statistics for educational institutions indicate minorities and women are precluded from the most prestigious and higher paying positions, and are relegated to the more menial and lower paying jobs.

Affirmative Action is intended to remedy the decades of racial and ethnic divisions in American society which are reflected by the institutions which have systematically excluded the Hispanic and other minorities in denying them equal employment opportunities.[7] Systematic discrimination has thoroughly been built unintentionally into these institutions which control access to employment opportunities. Therefore, the resulting inequalities make new opportunities less accessible. This is by all means also applicable to institutions of higher education. As long as the consequences of past discrimination remain, the necessity to address ourselves to the imbalance will continue.

The Hispanic community views higher education as the means to achieve full integration into American society. It is the means to affectively enter and participate as full and equal citizens.

The peer review system for tenure at the college level remains one of the major means by which professors gain access into the higher echelon of academia.

The peer review system also works much the same way in order to enter the high administrative levels where decisions are made that affect entire institutions of higher learning. The review of graduate work is also based on a similar basis which determines whether that graduate student succeeds. Such a peer review system serves to perpetuate itself in excluding Hispanics as well as other minorities and women.

Affirmative Action is meant to correct these barriers allowing minorities by assisting them to enter those areas of traditional white male domain. Additionally, the visibility of minorities in such areas gives them, and particularly the Hispanics of which there are currently very few, successful role models which to emulate. This visibility is of primary importance in the development of future students, faculty, and professional staff at centers of higher education. Until affirmative action takes sufficient hold to overcome the numerous disadvantages Hispanics and other minorities have faced in breaking the vicious cycle, the need for it shall continue. So long as the faculty in higher education institutions are 97% white, minorities are going to experience real or perceived alienation in these environments.[8]

Unfortunately, the Office of Civil Rights in HEW has not been very successful in the implementation of affirmative action plans in institutions of higher education across the country. A major problem hindering the effective implementation of affirmative action plans is OCR's and DOL's lack of adequate program guidance. Subsequently, OCR's regional offices which are to administer the plans have been left in the dark to draw upon their own judgements. This has resulted in the confusion of enforcement efforts because of the lack of national co-ordination by HEW and DOL. Moreover, HEW has also been negligent in establishing policy and procedure in the implementation in affirmative action plans, thus, compounding the breakdown of communications from HEW in Washington. Lack of adequate personnel at OCR has also been another major problem

in directing affirmative action programs at the 1,000 to 1,300 colleges and universities that are affected. Because of the prevailing situation, many institutions do not know whether their programs comply with the Executive Order and the implementing guidelines. As of December 9, 1974, only 29 colleges and universities had acceptable affirmative action programs.[9]

In regard to enforcing affirmative action efforts, HEW has inconsistently notified institutions that their plans have not been in compliance. Additionally, it has not initiated actions against these institutions. Moreover, HEW has negotiated and conciliated with colleges and universities over prolonged periods rather than working with them within the time periods as specified by the guidelines to prepare acceptable affirmative action programs. Obviously, HEW has not provided a uniform nation-wide program for compliance efforts.

We recommend that the following steps be instituted to implement the effective continuation of affirmative action at the nation's colleges and universities.

1) HEW should institute a thorough program to assist institutions of higher education in the areas of personnel, institutional and managerial planning in over-all affirmative action efforts.

2) The Office of Civil Rights in HEW take the proper steps to develop professional staff with adequate racial and ethnic representation to include Hispanics, which can effectively deal with the problems of employment and admissions in higher education.

3) By 1976, HEW should institute a national data and dissemmination system on the availibily pool of minorities including Hispanics for academic employment. Furthermore, HEW, in its compilation of data on higher education, should take steps to include Hispanic men and women in its breakdown in students, faculty, and professional staff.

4) All federal agencies that are involved with affirmative action efforts should develop uniform guidelines for higher education with HEW supervising such an effort.

5) HEW should place greater emphasis on affirmative action in graduate schools to increase the availability of minorities including Hispanics for academic employment.

6) HEW should require the development of a written affirmative action program with goals and timetables to eliminate the under-utilization or under-representation of minorities and force the adherence to such timetables.

7) HEW should require an in-depth internal analysis of work forces in colleges and universities in order to identify problem areas in affirmative action efforts.

8) HEW should require all institutions to submit quarterly or bi-annual reports on the status of implementation of their affirmative action plans and where non-compliance is found that the institution be given an adequate specified time period to remedy the shortcomings before notifying the institution of sanction proceedings.

9) HEW and DOL should up-date existing compliance guidelines to stipulate that colleges and universities take the proper steps to comply with federal laws. Remedial efforts directed primarily towards Hispanics should be undertaken where discrimination previously existed.

10) DOL should become more definitive of the responsibilities it has delegated to HEW.

11) If the outlined deficiencies are not remedied by HEW within the next year, DOL should consider revoking HEW's authority for the enforcement of the Executive Order with regard to institutions of higher education. If this turns out to be the case, DOL should incorporate all of our recommendations in its own affirmative efforts.

This concludes our testimony. If you should have any further questions, we will address ourselves to them at this time.

Thank you.

FOOTNOTES

1. Digest of Educational Statistics, 1974. Washington: National Center for Education Statistics, HEW, 1974, p. 103.

2. United States 1970 Census.

3. Spanish Surname Students as a Percentage of the Total Student Bodies in the California Public Educational Systems. California Dept. of Education, 1970.

4. Statistics on Fall 1973 Enrollment of Spanish Surnamed Fulltime Students in American Colleges and Universities. HEW, Office for Spanish Speaking Affairs, U.S. Office of Education, March, 1975.

5. Ibid.

6. Alan E. Bayer, Teaching Faculty in Academe: 1972-73. Washington: American Council on Education, 1973.

7. Statement on Affirmative Action for Equal Employment Opportunities. Washington, U.S. Commission on Civil Rights, February 1973, p.5.

8. Dr. Mary M. Lepper, Minority Access to Higher Education: Problems, Trends and Challenges. Washington: Office of Civil Rights, HEW, July, 1975.

9. More Assurances Needed That Colleges and Universities with Government Contracts Provide Equal Emplyment Opportunity , Washington: GAO, August 1975, p.6.